IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NICOLA DEIULIIS, a minor, by his guardian, ANNETTE DEIULIIS, and ANNETTE DEIULIIS in her own right,	)	
Plaintiff,	)	
v.	)	No. 2005-01077
BOY SCOUTS OF AMERICA NATIONAL COUNCIL,	)	
Defendant.	)	

ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' COMPLAINT

AND NOW, comes the Defendant, Boy Scouts of America, by and through their attorneys, Burns, White & Hickton, LLC and David B. White, Esq. and Mark E. Schweers, Jr., Esq. and files the following Answer and Affirmative Defenses to Plaintiffs' Complaint:

1. The Defendant admits that the Plaintiffs are citizens of Pennsylvania. Defendant admits that the Boy Scouts of America has its principal place of business within the State of Texas. Defendant is without knowledge and information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 1.

2. Denied.

3. Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 3.

4. Defendant is without knowledge and information sufficient to form a belief as to the truth of the averments contained in paragraph 4.

5. Denied.

Dockets.Justia.com

WHEREFORE, Defendant, Boy Scouts of America denies that it is liable to the Plaintiffs and request the Plaintiffs' Complaint be dismissed and that judgment be entered in its favor, together with costs and disbursements, including attorney's fees and other such future relief as this Court deems just and proper.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Complaint fails to state a claim against the Defendant, Boy Scouts of America, upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' Complaint fails to state a cause of action against the Defendant, Boy Scouts of America.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by any and all applicable statutes of limitations.

FOURTH AFFIRMATIVE DEFENSE

This Court has no personal jurisdiction over this Defendant.

FIFTH AFFIRMATIVE DEFENSE

To the extent established through discovery, the damages and injuries sustained by Plaintiff were caused by the negligent acts and/or omissions of individual and/or entities other than this Defendant over whom this Defendant exercised no dominion or control.

WHEREFORE, Defendant, Boy Scouts of America, denies it is liable to the Plaintiffs and request the Plaintiffs' Complaint be dismissed and that judgment be entered in its favor, together with costs and disbursements, including attorney's fees and other such future relief as this Court deems just and proper.

Respectfully submitted,

Burns, White & Hickton, LLC

By:

David B. White, Esquire (PA I.D. 36684)
Mark E. Schweers, Jr., Esquire (PA I.D. 92789)
Attorneys for Defendant

Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

(412) 995-3000

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' COMPLAINT** has been served upon all counsel of record by United States First Class Mail, postage prepaid, this 29th day of September, 2005, addressed as follows:

Victor H. Pribanic, Esquire
1735 Lincoln Way
White Oak, PA 15131

BURNS, WHITE & HICKTON

BY: ______________________
David B. White, Esquire (PA I.D. 36684)
Mark E. Schweers, Jr., Esquire (PA I.D. 92789)
Attorneys for Defendant